

Application No. 10/556,227  
Amendment Dated January 15, 2009  
Reply to Office Action of August 15, 2008

## REMARKS/ARGUMENTS

Claims 12-17, 20, and 22-24 are presently pending in the instant application. Claims 18 and 22 have been cancelled. Claim 12 has been amended to correct a typographical error. Accordingly, claims 12-17, 20, and 23-24 will be pending upon entry of the instant amendments. *No new matter has been added.*

Moreover, amendment and/or cancellation of the claims during pendency of the application are not to be construed as acquiescence to any of the objections/rejections set forth in any Office Action, and were done solely to expedite prosecution of the application. Applicants submit that claims were not added or amended during prosecution of the instant application for reasons related to patentability. Applicants reserve the right to pursue the claims as originally filed, subsequently amended or added, or similar claims, in this or one or more subsequent applications.

## **Claim Rejections under 35 USC §112**

### Rejection of Claims 12 and 22 under 35 USC §112, Second Paragraph

Claims 12 and 22 stand rejected under 35 USC §112, second paragraph, "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." In particular, the Office Action indicates on page 2 that "the group C<sub>1</sub>-C<sub>8</sub>alkyl-NR<sup>3</sup>R<sup>4</sup> is indefinite because alkyl represents a terminal group and not a linking alkylene to the N." The Office Action also suggests that claim 22 "lacks antecedent basis for the variable R<sup>1</sup> because claim 12 does not define R<sup>1</sup> as a protected derivative."

Applicants respectfully disagree. However, solely to expedite prosecution, Applicants have cancelled claim 22. With respect to claim 12, Applicants traverse the Examiner's suggestion that the group C<sub>1</sub>-C<sub>8</sub> alkyl-NR<sup>3</sup>-R<sup>4</sup> is indefinite in that the term alkyl represents a terminal group and not a linking group attached to the N. In this regard, Applicants respectfully point out that the C<sub>1</sub>-C<sub>8</sub> alkyl-NR<sup>3</sup>-R<sup>4</sup> group is included as an optional substituent on Ar and not an independent value of Ar itself. Thus, Applicants assert that it would be abundantly clear to the ordinarily skilled artisan that the **C<sub>1</sub>-C<sub>8</sub> alkyl** is not a terminal group and is indeed the portion that forms the link with the phenyl group of Ar, and is, in turn **substituted by NR<sup>3</sup>R<sup>4</sup>**. This is

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clearly supported by the disclosure of the specification. For example, the process scheme depicted at the top of page 7 of the originally filed application clearly indicates that Formula I includes compounds in which the phenyl ring of the Ar group is substituted with -CH<sub>2</sub>-NR<sup>3</sup>-R<sup>4</sup> linked through the -CH<sub>2</sub>- group. Further support is also provided by the experimental examples, in which there are several compounds that have phenyl substituted with a C<sub>1</sub>-C<sub>8</sub> alkyl-NR<sup>3</sup>-R<sup>4</sup> as the Ar group. In particular, see Examples 3-7 and 11. The totality of these compounds provides more than sufficient support for the **C<sub>1</sub>-C<sub>8</sub> alkyl** portion of the C<sub>1</sub>-C<sub>8</sub> alkyl-NR<sup>3</sup>-R<sup>4</sup> group that is linked to the phenyl group and substituted by a NR<sup>3</sup>-R<sup>4</sup> moiety.

For additional clarity, the “C<sub>1</sub>-C<sub>8</sub> alkyl-NR<sup>3</sup>-R<sup>4</sup>” moiety may also be written and would be understood by the ordinarily skilled artisan without ambiguity as a C<sub>1</sub>-C<sub>8</sub> alkyl group (*i.e.*, a substituent of the Ar moiety) substituted with a NR<sup>3</sup>-R<sup>4</sup> group. Such designation would not be ambiguous, but rather implicit of a substituted alkyl moiety; nor would it require translation into divalent or linking “alkylene” language.

As such, Applicants respectfully request withdrawal of the rejection of claims 12 and 22 under 35 USC §112, second paragraph, and favorable reconsideration.

### **Claim Objections**

Claims 13-17, 19, 20, 23, and 24 have been objected to as being dependent on a rejected base claim, but “would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims...” Applicants have addressed the suggested §112 rejections and believe the rejection of claim 12 under 35 USC §112, second paragraph has been overcome. Accordingly, the objections to claims 13-17, 19, 20, 23, and 24 should now be moot.

### **Request for Phone Interview**

Once the Examiner has had an opportunity to review the comments made herein, Applicants respectfully request a phone interview in order to discuss any final details that may help result in an allowance of the application with all pending claims.

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### CONCLUSION

With regard to the objections raised by the Examiner in the Office Action, Applicants note that the instant arguments/amendment makes moot all of the rejections/objections raised, and should therefore place the application in order for allowance. Accordingly, Applicants respectfully request favorable reconsideration and allowance of all pending claims. Passage of the instant application to issuance is earnestly solicited. As noted above, if a telephone conversation with Applicants' attorney would help to expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' attorney at the telephone number below.

A petition for a two months extension of time is being filed herewith, the Commissioner is hereby authorized to charge any deficiency in the fees or credit any overpayment to deposit account No. 50-3231, referencing Attorney Docket No. 101055-1P US.

Respectfully submitted,  
/Jacob G. Weintraub/

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Name: Jacob G. Weintraub, Esq.  
Dated: January 15, 2009  
Reg. No.: 56,469  
Phone No.: 781-839-4182  
Global Intellectual Property, Patents,  
AstraZeneca R&D Boston,  
35, Gatehouse Drive,  
Waltham,  
MA 02451